

## **3.0 PROTECTION OF CLASSIFIED MATTER**

### **3.1 CONDUCT OF REVIEW**

This chapter of the revised draft Safety Evaluation Report pertains to protection of classified matter and whether the applicant's treatment of classified matter will be sufficient to assure that it is adequately protected. The staff evaluated the information provided by the applicant in Chapter 3 of the revised Construction Authorization Request (CAR) and supplementary information provided by the applicant.

The staff reviewed how the applicant has addressed the following regulations:

- Part 25 of 10 CFR specifies the requirements granting and terminating access authorizations to licensee personnel and its contractors who may require access to classified information.
- Part 95 of 10 CFR specifies the requirements for obtaining security facility approval and for safeguarding Secret and Confidential National Security Information and Restricted Data.

The staff used Chapter 3 in NUREG-1718 as guidance in performing the review.

Chapter 3 of the revised CAR states that the applicant is handling classified matter in accordance with applicable U.S. Department of Energy (DOE) requirements and that it will submit its standard practice procedures plan for the protection of classified matter along with its application for a license to possess and use special nuclear material.

The staff reviewed the applicant's commitment to provide its standard practice procedures plan for the protection of classified matter along with its license application and concludes that the revised CAR does not need to address procedures for the protection of classified matter because the design basis of the Mixed Oxide Fuel Fabrication Facility (MFFF or the facility) need not be evaluated for the protection of classified matter. However, the applicant will be required to submit a standard practice procedures plan for the protection of classified matter in accordance with 10 CFR Parts 25 and 95 as part of its license application.

Foreign ownership, control or influence (FOCI) determination is discussed in Section 1.2.1.2.

The U.S. Nuclear Regulatory Commission (NRC) has confirmed that the applicant was rendered a favorable foreign ownership, control, or influence determination (FOCI) on March 12, 1999, by the DOE. In addition, favorable FOCI determinations were made by DOE for Duke Project Services Group, Inc. (DPSG) on June 10, 2002, and for Stone & Webster by the Department of Defense. The NRC accepts DOE FOCI determinations based on a Memorandum of Understanding between NRC and DOE dated October 9, 1996.

### **3.2 EVALUATION FINDINGS**

The staff concludes that it is acceptable to not include its standard practice procedures plan for the protection of classified matter as part of the revised CAR and to handle classified matter according to DOE regulations at this time.

### **3.3 REFERENCES**

- 3.3.1 Code of Federal Regulations, *Title 10, Energy*, Part 25, "Access Authorization for Licensee Personnel."
- 3.3.2 Code of Federal Regulations, *Title 10, Energy*, Part 95, "Facility Security Clearance and Safeguarding of National Security Information and Restricted Data."
- 3.3.3 Nuclear Regulatory Commission (U.S.) (NRC). "Standard Practice Procedures Plan Standard Format and Content for the Protection of Classified Matter for NRC Licensee, Certificate Holder and Others Regulated by the Commission." NRC: Washington, D.C. October 1999, as revised.